

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JOHN DOE, *et al.*,

Plaintiffs,

v.

DONALD TRUMP, in his official
capacity as President of the United
States, *et al.*,

Defendants.

No. 2:17-cv-00178 (JLR)

STIPULATION AND
~~PROPOSED~~ ORDER TO
STAY PROCEEDINGS

Noted for Consideration:
May 26, 2017

Pursuant to the Court's May 22, 2017, Order to Show Cause, Dkt. # 32, Plaintiffs and Defendants, through their respective undersigned counsel, hereby stipulate and agree as follows:

1. Plaintiffs challenge Executive Order 13,780, titled "Protecting the Nation from Foreign Terrorist Entry into the United States" ("EO2"). *See* 82 Fed. Reg. 13,209 (Mar. 6, 2017). Plaintiffs have filed a Second Amended Class Action Complaint for Declaratory and Injunctive Relief contesting the legality of EO2, Dkt. # 30, as well as a Motion for Class Certification, Dkt. # 19. Pursuant to earlier Stipulations and Orders, Defendants' response to the Second Amended Complaint is currently due on June 1, 2017 and their response to Plaintiffs' class certification

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[PROPOSED] ORDER TO
STAY PROCEEDINGS
(2:17-cv-00178-JLR) - 1

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

U.S. DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW
Washington, DC 20530
Tel: (202) 305-8902

1 motion is currently due fourteen days after the Ninth Circuit's ruling in *Hawai'i v. Trump*, No.
2 17-50 (D. Haw.). See Dkt. #s 18, 29.

3 2. On May 17, 2017, and May 22, 2017, respectively, the Court entered orders
4 staying the proceedings in *Washington v. Trump*, No. 17-141JLR (W.D. Wash.), Dkt. # 189, and
5 *Ali v. Trump*, No. 17-135JLR (W.D. Wash.), Dkt. # 95, pending resolution of the appeal in
6 *Hawai'i v. Trump (Hawai'i)*, No. 17-15589 (9th Cir.). The Court further ordered the parties to
7 file a joint status report within ten days of the Ninth Circuit's ruling in *Hawaii* so that the Court
8 could evaluate the continued appropriateness of the stay at that time. The Court also noted that
9

10 any party may move to lift the stay should circumstances change such that lifting the stay is
11 warranted.

12 3. In light of the Court's orders staying the proceedings in *Washington* and *Ali*,
13 Plaintiffs and Defendants agree that a similar stay is appropriate in this case. Accordingly, the
14 parties stipulate and agree as follows:
15

16 a. Proceedings in this case (including Defendants' deadlines to respond to
17 the Second Amended Complaint and class certification motion) shall be
18 stayed pending the Ninth Circuit's resolution of the appeal in *Hawaii v.*
19 *Trump*.

20 b. The parties shall file a joint status report within ten days of the Ninth
21 Circuit's ruling in *Hawaii* so that the Court may evaluate the continued
22 appropriateness of a stay at that time.

23 c. Should circumstances change such that lifting the stay is warranted, any
24 party may move to lift the stay. For example, if the Ninth Circuit lifts or
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narrows the preliminary injunction in *Hawaii*, Plaintiffs may seek to lift the stay for the purpose of filing a motion for temporary restraining order or preliminary injunction.¹

d. As the Court noted in *Washington*, Dkt. # 189 at 8-9, Plaintiffs may send preservation letters to third parties to notify them of the litigation and request that they preserve any potentially relevant evidence. If Plaintiffs do not believe that sending such letters will resolve the issue of third-party evidentiary preservation, Plaintiffs may move for a limited modification of the stay order to allow Plaintiffs to issue subpoenas to third parties. If any such motion is granted, the Court would then stay any required production under or response to the subpoenas until such time as the stay is fully lifted.

Accordingly, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs and Defendants, subject to the Court's approval, that:

A. Proceedings in this case (including Defendants' deadlines to respond to the Second Amended Complaint and class certification motion) are stayed pending the Ninth Circuit's resolution of the appeal in *Hawaii v. Trump*.

¹ Plaintiffs were preparing to file a motion for preliminary injunction in mid-March when this Court stayed the temporary restraining order proceedings in *Ali v. Trump*. Order Staying Pls.' Mot. TRO & Prelim. Injunctive Relief, *Ali*, No. 17-135JLR (W.D. Wash. Mar. 17, 2017), Dkt. # 79. Using that order as a guide, the *Doe* Plaintiffs did not file their motion.

1 B. The parties shall file a joint status report within ten days of the Ninth Circuit's
2 ruling in *Hawaii* so that the Court may evaluate the continued appropriateness of a stay at that
3 time.

4 C. Should circumstances change such that lifting the stay is warranted, any party
5 may move to lift the stay. For example, if the Ninth Circuit lifts or narrows the preliminary
6 injunction in *Hawaii*, Plaintiffs may seek to lift the stay for the purpose of filing a motion for
7 temporary restraining order or preliminary injunction.
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9 D. Plaintiffs may send preservation letters to third parties to notify them of the
10 litigation and request that they preserve any potentially relevant evidence. If Plaintiffs do not
11 believe that sending such letters will resolve the issue of third-party evidentiary preservation,
12 Plaintiffs may move for a limited modification of the stay order to allow Plaintiffs to issue
13 subpoenas to third parties. If any such motion is granted, the Court would then stay any required
14 production under or response to the subpoenas until such time as the stay is fully lifted.
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17 DATED this 26th day of May, 2017.
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1	Presented by:	
2	KELLER ROHRBACK L.L.P.	CHAD A. READLER Acting Assistant Attorney General
3	By: <u>/s/ Lynn Lincoln Sarko</u>	JENNIFER D. RICKETTS Director, Federal Programs Branch
4	By: <u>/s/ Tana Lin</u>	
5	By: <u>/s/ Amy Williams-Derry</u>	JOHN R. TYLER Assistant Director, Federal Programs Branch
6	By: <u>/s/ Derek W. Loeser</u>	
7	By: <u>/s/ Alison S. Gaffney</u>	<u>/s/ Michelle R. Bennett</u> MICHELLE R. BENNETT Trial Attorney U.S. Department of Justice Civil Division, Federal Programs Branch 20 Massachusetts Avenue, NW Washington, DC 20530 Tel: (202) 305-8902 Fax: (202) 616-8470 Email: michelle.bennett@usdoj.gov
8	Lynn Lincoln Sarko, WSBA # 16569	
9	Tana Lin, WSBA # 35271	
10	Amy Williams-Derry, WSBA #28711	
11	Derek W. Loeser, WSBA # 24274	
12	Alison S. Gaffney, WSBA #45565	
13	1201 Third Avenue, Suite 3200	
14	Seattle, WA 98101	
15	Telephone: (206) 623-1900	
16	Facsimile: (206) 623-3384	
17	Email: lsarko@kellerrohrback.com	
18	tlin@kellerrohrback.com	
19	awilliam-derry@kellerrohrback.com	
20	dloeser@kellerrohrback.com	
21	agaffney@kellerrohrback.com	
22	By: <u>/s/ Laurie B. Ashton</u>	<i>Attorneys for Defendants</i>
23	Laurie B. Ashton (<i>Pro Hac Vice</i>)	
24	3101 North Central Avenue, Suite 1400	
25	Phoenix, Arizona 85012-2600	
26	Telephone: (602) 248-0088	
27	Facsimile: (602) 248-2822	
28	Email: lashton@kellerrohrback.com	
29	By: <u>/s/ Alison Chase</u>	
30	Alison Chase (<i>Pro Hac Vice</i>)	
31	801 Garden Street, Suite 301	
32	Santa Barbara, CA 93101	
33	Telephone: (805) 456-1496	
34	Facsimile: (805) 456-1497	
35	Email: achase@kellerrohrback.com	
36	<i>Attorneys for Plaintiffs/Cooperating</i>	
37	<i>Attorneys for the American Civil</i>	
38	<i>Liberties Union Of Washington</i>	
39	<i>Foundation</i>	

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Civil Division, Federal Programs Branch
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Washington, DC 20530
Tel: (202) 305-8902

1
2 AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON FOUNDATION

3 By: /s/ Emily Chiang

4 By: /s/ La Rond Baker

Emily Chiang, WSBA # 50517

La Rond Baker WSBA # 43610

901 Fifth Avenue, Suite 630

Seattle, Washington 98164

Telephone: (206) 624-2184

Email: echiang@aclu-wa.org

lbaker@aclu-wa.org

8 *Attorney for Plaintiffs*

10 **ORDER**

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12 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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14
15 Date: 30 May 2017

By: 

JAMES L. ROBERT

United States District Judge

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26 STIPULATION AND
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CERTIFICATE OF SERVICE

I hereby certify that, on May 26, 2017, a copy of the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED this 26th day of May, 2017.

KELLER ROHRBACK L.L.P.

By: /s/ Tana Lin

Tana Lin, WSBA # 35271
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900
Facsimile: (206) 623-3384
Email: tlin@kellerrohrback.com

*Attorney for Plaintiffs/Cooperating
Attorney for the American Civil
Liberties Union Of Washington
Foundation*

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